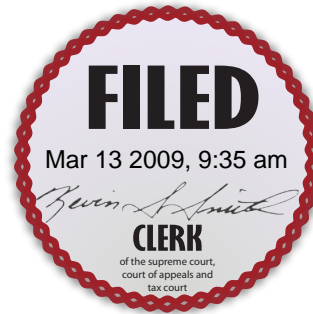


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF: S.R.,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0808-JV-746

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
The Honorable Scott Stowers, Magistrate
Cause No. 49D09-0805-JD-1545

March 13, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

S.R. appeals his adjudication as a juvenile delinquent for committing battery as a class A misdemeanor if committed by an adult.¹

We affirm.

ISSUE

Whether sufficient evidence exists to support the juvenile court's adjudication.

FACTS

The facts most favorable to the juvenile adjudication reveal that on the evening of May 21, 2008, thirteen-year old Z.C., his younger brother, B.J., and B.J.'s friend, J., were riding their bicycles on the grounds of a Marion County school. Thirteen-year old S.R. and his friend, C.J., were also on the school grounds, playing baseball. At some point, Z.C. and S.R. argued and exchanged insults. S.R. began to hit the palm of his hand repeatedly with the aluminum baseball bat and told Z.C. "to go F[---] himself and [his] brother." (Tr. 13). Five-year old B.J. grabbed a handful of "grass and rock and grain" and ran toward S.R. (Tr. 9). S.R., still holding the baseball bat, started to run. B.J. threw the handful of debris at S.R. In response, S.R. turned and hurled the baseball bat at B.J. Z.C. quickly jumped in front of B.J. and was struck in the head. He required stitches for his injuries.

On May 22, 2008, the State filed a petition alleging that S.R. was a juvenile delinquent for committing an offense that would be a class C felony battery with a deadly

¹ Indiana Code § 35-42-2-1.

weapon if committed by an adult.² On June 12, 2008, the juvenile court conducted a denial hearing after which it made a true finding of delinquency as to the lesser-included offense of battery as a class A misdemeanor. A disposition hearing was held on July 24, 2008, and S.R. was placed on probation. He now appeals the adjudication.

DECISION

S.R. first argues that the evidence is insufficient to support his adjudication for battering Z.C. He contends that “[h]is actions were not made intentionally or knowingly and not made in a rude[,], insolent[,], or angry manner” S.R.’s Br. at 3. We disagree.

When the State seeks to have a juvenile adjudicated as a delinquent for committing an act which would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. In reviewing a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment and will neither reweigh evidence nor judge the credibility of the witnesses. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the juvenile was guilty beyond a reasonable doubt, we will affirm the adjudication.

J.S. v. State, 843 N.E.2d 1013, 1016 (Ind. Ct. App. 2006) (internal citations omitted).

The State was required to prove that S.R. knowingly or intentionally touched Z.C. in a rude, insolent, or angry manner resulting in bodily injury. I.C. § 35-42-2-1.

Our review of the record shows that S.R. and Z.C. engaged in a mutual verbal altercation, during which S.R. swore at Z.C. and struck the palm of his hand with an aluminum baseball bat. Five-year old B.J. ran toward S.R. and threw a handful of debris at him. S.R. responded by hurling the aluminum baseball bat at B.J., and Z.C. was

² Ind. Code § 35-42-2-1(a)(3).

injured when he jumped in front of his brother to shield him from the bat. The foregoing evidence was sufficient to prove that S.R. acted knowingly or intentionally when he threw the aluminum bat in a rude, insolent, or angry manner. Hence, we find that the evidence was sufficient to prove the offense of battery.

S.R. also challenges the sufficiency of the evidence by arguing that the State failed to rebut his self-defense claim. Again, we disagree.

A valid claim of self-defense is legal justification for an otherwise criminal act. I.C. § 35-41-3-2. When a defendant raises the claim of self-defense, he must show that (1) he did not provoke, instigate, or participate willingly in the violence; (2) he was in a place where he had a right to be; and (3) he had a reasonable fear or apprehension of bodily harm. *Jordan v. State*, 887 N.E.2d 1027, 1027 (Ind. Ct. App. 2008). Once a defendant claims self-defense, the State must disprove at least one of these elements beyond a reasonable doubt for the defendant's claim to fail. *Id.* "The State may meet this burden by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief." *Id.*

The standard of review for sufficiency of the evidence to rebut a claim of self-defense is no different than for any sufficiency of the evidence claim. *Sanders v. State*, 704 N.E.2d 119, 123 (Ind. 1999). Thus, we neither reweigh the evidence nor judge the credibility of witnesses; we will not disturb the verdict if there is sufficient evidence of probative value to support the conclusion of the factfinder. *Id.*

The record reveals that the State negated at least one of the necessary elements of his self-defense claim. The evidence simply does not support S.R.'s claim that he threw the aluminum bat at five-year old B.J. out of a reasonable fear of bodily harm after B.J. threw a handful of debris at S.R. as he was running away. We conclude the evidence was sufficient to rebut S.R.'s self-defense claim.

Affirmed.

RILEY, J., and VAIDIK, J., concur.